

U.S. Patent Application Serial No. 10/564,633  
Response filed March 4, 2009  
Reply to OA dated December 5, 2008

### **REMARKS**

Claims 1-13 are pending in this application. An amendment is proposed in which claims 1, 4 and 5 are canceled without prejudice or disclaimer, claims 2, 3, 6, 7 and 9-12 are amended, and claims 14-20 are newly added herein. Upon entry of this amendment, claims 2, 3 and 6-20 will be pending. Entry of this amendment and reconsideration of the rejections are respectfully requested.

No new matter has been introduced by this Amendment. Support for the amendments to the claims is as follows:

Claims 6 and 7 are amended to be in independent form by incorporating the recitations of their respective base claims. There is no change in scope to claims 6 and 7 by this amendment.

Claims 2, 3 and 9-12 have been amended to depend from claim 6. Claims 2, 3, and 9-13, as amended, therefore depend ultimately from claim 6.

New claims 14-20 depend ultimately from claim 7, and support for the limitations in these claims may be found in claims 2, 3 and 9-13, respectively.

#### **Regarding the finality of the Office action.**

In the previous Office action, in paragraph no. 12, claim 2 was rejected under 35 U.S.C. 103(a) over Mukuyoshi and Totani. In the present Office action, in paragraph no. 12, claims 2, 3, 12 and 13 are rejected over these references. However, there was no amendment to the scope of claim 3 in the Amendment of August 26, 2008 (claims 1-11 were not amended). Therefore, the present rejection of claim 3 represents a **new ground of rejection not necessitated by amendment**.

U.S. Patent Application Serial No. **10/564,633**  
Response filed March 4, 2009  
Reply to OA dated December 5, 2008

Applicant therefore respectfully submits that the finality of the present Office action (December 5, 2008) is improper, and requests withdrawal of the finality of the present Office action.

**Claims 1, 5, 10 and 11 are rejected under 35 U.S.C. §102(b) as being anticipated by Mukoyoshi et al. (US 6,187,430 B1). (Office action paragraph no. 4)**

**Claims 2, 3, 12 and 13 are rejected under 35 U.S.C. §103(a) as being unpatentable over Mukoyoshi et al. (US 6,187,430 B1), as applied to claim 1 above, and further in view of Totani et al. (US 2001/0009712 A1). (Office action paragraph no. 12)**

**Claims 4 and 9 are rejected under 35 U.S.C. §103(a) as being unpatentable over Mukoyoshi et al. (US 6,187,430 B1), as applied to claim 1 above, and further in view of Quintens et al. (US 2002/0094421 A1). (Off**

**Claims 6-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. (Office action paragraph no. 26)**

The rejections of claims 1, 4 and 5 are moot in view of the cancellation of these claims without prejudice or disclaimer.

The objections to claims 6-8 are overcome by the amendments to claims 6 and 7, which have been amended to be in independent form, incorporating the limitations of their respective base and intervening claims. The scope of claims 6-8 is not changed by this amendment.

U.S. Patent Application Serial No. 10/564,633  
Response filed March 4, 2009  
Reply to OA dated December 5, 2008

The rejections of claims 2, 3 and 9-13 are overcome by the amendments to the claims. Claims 2, 3 and 9-12 have been amended to be dependent from claim 6. Claim 13 depends from claim 2, and therefore ultimately depends from claim 6. The Examiner has indicated that claim 6 would be allowable if rewritten to be in independent form, and claim 6 has been rewritten. Since claims 2, 3 and 9-13 include the limitations of claim 6, allowance of these claims is respectfully requested.

Regarding new claims 14-20.

New claims 14-20 depend ultimately from claim 7, which the Examiner has indicated would be allowable if rewritten in independent form. Claims 14-20 recite the limitations found in claims 2, 3, 9, 10, 11, 12, and 13, respectively. Consideration and allowance of these claims is respectfully requested.


If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the applicants' undersigned agent at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

U.S. Patent Application Serial No. **10/564,633**  
Response filed March 4, 2009  
Reply to OA dated December 5, 2008

In the event that this paper is not timely filed, the applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,

KRATZ, QUINTOS & HANSON, LLP

  
Daniel A. Geselowitz, Ph.D.  
Agent for Applicants  
Reg. No. 42,573

DAG/xl

Atty. Docket No. **050825**  
Suite 400  
1420 K Street, N.W.  
Washington, D.C. 20005  
(202) 659-2930



**23850**

PATENT & TRADEMARK OFFICE

H:\050\050825\Response in re FOA of 12-05-08